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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,914	09/20/2002	Arne Stavland	2002-0417A	2771
513	7590	12/02/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			TUCKER, PHILIP C	
2033 K STREET N. W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20006-1021			1712	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/088,914	STAVLAND ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Philip C Tucker	1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 31-68 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 31-68 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 31-37, 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Vanderhoff (3284393).

Vanderhoff teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the present invention, and of polymer as low as 5% of the aqueous phase (see column 1, line 66 – column 2, line 7 and the examples). Such would inherently break within the same time frame as in claim 48. Applicants intended use does not distinguish over the prior art (In re Pearson 181 USPQ 641).

3. Claims 31-37 and 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (3624019).

Anderson teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the

present invention, and of polymer as low as 2% of the aqueous phase (see column 3, lines 33-36, and column 2, line 65- column 3, line 19). Such would inherently break within the same time frame as in claim 48. Applicants intended use does not distinguish over the prior art (In re Pearson 181 USPQ 641).

4. Claims 31-37, 44-57 and 63-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Quintero (6204224).

Quintero teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water, polymer and oil within the scope of the present invention (Tables I-III and column 3, lines 39-43). Such would inherently reduce water permeability more than oil permeability, and break within the same time frame as in claim 48.

5. Claims 31-37,44-57 and 63-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips (4284304).

Phillips teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the present invention, and of polymer as low as 5% of the aqueous phase (see abstract and column 5, lines 44-63). The emulsion is used in subterranean formations. Such would inherently reduce water permeability more than oil permeability, and break within the same time frame as in claim 48.

6. Claims 31-37 and 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips (4283507).

Phillips teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the present invention, and of polymer as low as 5% of the aqueous phase (see column 1, lines 60-column 2, line 9). Such would inherently break within the same time frame as in claim 48. Applicants intended use does not distinguish over the prior art (In re Pearson 181 USPQ 641).

7. Claims 31-38,44-57 and 63-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Bleeker (4670550).

Bleeker teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the present invention, and of polymer as low as 1% of the aqueous phase (see column 1, lines 66-column 2, line10). The emulsion is used in subterranean formations (column 1, lines 12-16). Such would inherently reduce water permeability more than oil permeability, and break within the same time frame as in claim 48.

8. Claims 31-37 and 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Dawson (5735349).

Dawson teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of water and oil within the scope of the

present invention (see Examples 1 and 2). Such would inherently break within the same time frame as in claim 48. Applicants intended use does not distinguish over the prior art (In re Pearson 181 USPQ 641).

9. Claims 31-38,44-57 and 61-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Sunde (5919739).

Sunde teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of polymer, water and oil within the scope of the present invention (see column 2, lines 6-22). The emulsion is used in subterranean formations (column 1, lines 6-19). A crosslinker is included in the oil phase which anticipates claims 61 and 62. Such would inherently reduce water permeability more than oil permeability, and break within the same time frame as in claim 48.

10. Claims 31-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Le et al (6169158).

Le teaches a water in oil emulsion comprising an aqueous gellant emulsified in oil, wherein the level proportions of polymer, water and oil within the scope of the present invention (see column 6, lines 16-19 and Example 1). The emulsion is used in subterranean formations (column 1, lines 6-19). A crosslinker is included in the aqueous phase which can be a trivalent metal ion (column 14, lines 52-55). Such would inherently reduce water permeability more than oil permeability, and break within the same time frame as in claim 48.

11. Although numerous other references anticipate applicants broader claims, rejections have not been made over these other references in order not replicate rejections, and preserve brevity herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Philip C. Tucker  
Primary Examiner  
Art Unit 1712